

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
VALDOSTA DIVISION

DAVID T. TERRELL, SR.,

Petitioner

VS.

ANTHONY WASHINGTON,

Respondent

CIVIL ACTION NO.: 7:08-CV-71 (HL)

ORDER

Petitioner **DAVID T. TERRELL, SR.** has filed a notice of appeal (R. at 26) from the Court's Order that adopted the United States Magistrate Judge's Recommendation that respondent's motion to be dismissed be granted and petitioner's motion for summary judgment be denied. (R. at 20, 24). The Eleventh Circuit Court of Appeals has mandated that this Court construe petitioner's notice of appeal as an application for a certificate of appealability ("COA") pursuant to 28 U.S.C. § 2253(c). *Edwards v. United States*, 114 F.3d 1083 (11th Cir. 1997). Under § 2253(c), a COA may issue only if the applicant has made a substantial showing of the denial of a constitutional right. For the reasons stated in the United States Magistrate Judge's recommendation and this Court's order adopting the same, the Court finds that petitioner has not made a substantial showing of the denial of a constitutional right. 28 U.S.C. § 2253(c)(2). Accordingly, the application for a COA is **DENIED**.

SO ORDERED, this 18th day of March, 2009.

s/ *Hugh Lawson*

HUGH LAWSON

UNITED STATES DISTRICT COURT